

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

MAY 20 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of the Local Competition)
Provisions in the Telecommunications)
Act of 1996)

CC Docket No. 96-98

Dialing Parity/Number Administration/)
Access to Rights-of-Way)

DOCKET FILE COPY ORIGINAL

COMMENTS
OF
SPRINT CORPORATION

Leon M. Kestenbaum
Jay C. Keithley
Norina T. Moy
1850 M St., N.W., Suite 1110
Washington, D.C. 20036
(202) 857-1030

May 20, 1996

No. of Copies rec'd
Use ARCADE

0217

Table of Contents

Summary	iii
I. DIALING PARITY	1
A. Presubscription requirements	3
B. Access to Operator Services, Directory Assistance, and Directory Listing	9
C. Dialing Delay	10
II. NUMBER ADMINISTRATION	12
III. ACCESS TO RIGHTS-OF-WAY	15

Summary

In this portion of the NPRM, the Commission is seeking comment on the best means to achieve dialing parity, impartial and equitable number administration, and nondiscriminatory access to poles, ducts, conduits, and rights-of-way. As the Commission correctly recognizes, each of these elements is essential to the development of local competition.

If local competition is to become a reality, there must be seamless interconnectivity -- the ability of an end user, no matter what the identity of his local service provider, to receive calls originating on another carrier's network, or place calls that terminate on another carrier's network, as if only a single network were involved. This type of dialing parity requires meaningful 1+ presubscription opportunities; nondiscriminatory access to operator services, directory assistance and directory listings; and equivalent dialing times for all carriers.

Sprint believes that, at a minimum, customers should be allowed to choose separate interLATA and intraLATA (but not international) carriers based on a modified 2-PIC option. This option, which allows an end user to select a preferred interLATA carrier and to choose between that carrier and the incumbent LEC to carry intraLATA toll calls, is well understood, and the technology to implement it is readily available. Therefore, the Commission should require that the BOCs implement this option within 6 months, and independent LECs within 12 months of adoption of an order in this proceeding. While all local service providers

should be required to offer the 2-PIC presubscription option, the dialing parity requirement does not impose full equal access obligations on competitive LECs (CLECs). CLECs should not be required to ballot their customers to determine their preferred carrier, since the expense and confusion associated with such ballots outweigh the likely benefits.

Seamless service also requires that CLEC customers have access to operator services, DA and directory listings on the same terms and conditions as customers of incumbent LECs (ILEC), and that each local service provider be able to control the routing of all calls, including operator assisted, DA and N11 calls, on its network.

The 1996 Act prohibits unreasonable dialing delays. Sprint suggests that, for purposes of measuring dialing delay, the relevant period begin when the caller completes dialing a call and end when the call is delivered by the ILEC to a competing service provider. This definition holds the ILEC accountable only for delays within its control. The same dialing delay standard should apply to all calls, whether they terminate to the incumbent's own network or to the network of a competitor. This standard will help to ensure that all calls are treated equally and will minimize the opportunity for anticompetitive discrimination.

Sprint believes that the Commission's decision to establish a North American Numbering Council (NANC), which will in turn select a neutral North American Numbering Plan Administrator (NANPA), satisfies Section 251(e)(1), which requires that the Commission designate a neutral administrator and ensure that num-

bers are made available on an equitable basis. However, until the NANC is appointed and the NANPA is selected, Bellcore and the ILECs (who currently serve as the NANPA and central office code administrators) should be required to apply identical standards and procedures for processing all numbering requests. They should also develop electronic interfaces so that resource requests can be submitted at any time.

Finally, Sprint agrees that competitors should have access to poles, ducts, conduits and rights-of-way on the same terms and conditions as are available to the ILEC or its affiliates. CLEC interconnectors should abide by the same safety requirements as apply to ILECs. Any ILEC which restricts access to its poles, ducts, conduits and rights-of-way should bear the burden of proving that such restrictions are reasonable and justified. The Commission should evaluate all claims of insufficient capacity on a case-by-case basis, since there is no standard formula for determining when capacity utilization limits have been reached. At least for the next five years, all users of poles, ducts, conduits and rights-of-way should be charged the same rate regardless of what type of service is being provided. The Commission can revisit the costing issue at some future date to determine whether new cost allocation rules are necessary to protect competition.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions in the Telecommunications)	
Act of 1996)	
)	
Dialing Parity/Number Administration/)	
Access to Rights-of-Way)	

COMMENTS

Sprint Corporation, on behalf of Sprint Communications Company, L.P. and the Sprint local telephone companies, hereby respectfully submits its comments on dialing parity, number administration, and access to rights-of-way in response to the *Notice of Proposed Rulemaking (NPRM)* released April 19, 1996 (FCC 96-182) in the above-captioned docket.¹

I. DIALING PARITY (Section II.C.3)

Section 251(b)(3) specifies that all local exchange carriers have

the duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.

To make local competition a reality, the Commission must foster a regime of "seamless" interconnectivity, under which an

¹ Sprint is also attaching proposed text for rules that would implement proposals set forth in Sprint's May 16 and May 20 comments in this proceeding. Sprint reserves the right to amend its draft rules based upon its review of comments filed in this proceeding.

end user -- whether it chooses a CLEC or remains with the incumbent LEC -- will be able to receive calls originating on another carrier's network, or place calls that terminate on another carrier's network as if only a single network were involved. Both of the duties found in §251(b)(3) are an important part of seamless interconnectivity. If interconnected networks are to function as pieces of an integrated whole, end users, regardless of their choice of carrier, must be able to complete calls without dialing extra digits (access codes or personal identification numbers), paying additional fees, or experiencing unreasonable dialing delays or other disadvantages. Seamless interconnectivity also requires that the different carriers be able to control the routing of all 0-, 0+, local, directory assistance, and N11 (including 911) calls placed over their networks. It also requires that all interconnected carriers have access to all directory listings.

The Telecommunications Act of 1996 gives the Commission substantial flexibility in implementing §251(b)(3). Except for the definition of "dialing parity" in §(3)(15) of the 1996 Act, the legislation contains no instructions as to how the duties in §251(b)(3) are to be interpreted or implemented.

The instant *NPRM* seeks comment on several issues relating to seamless calling: what specific presubscription methods will best achieve dialing parity; what carrier selection obligations apply to incumbent and competitive LECs; what access to operator assistance and directory assistance should be required; and what

constitutes an unreasonable dialing delay. As discussed below, many of these issues must be fully addressed now. However, there are other issues (e.g., the need for a separate international PIC) which can better be addressed at a later time, once cost and demand data become available and once further experience is gained. There is no way the Commission can answer with finality all of the questions raised in the *NPRM* or completely resolve all of the issues necessary to make local competition a reality within a six month timeframe. The regulatory process is one of continuing oversight. This oversight should, and must, continue until the barriers to local competition are removed so that a meaningful marketplace test as to the sustainability of competition can be undertaken.

A. Presubscription requirements

The Commission correctly states that "presubscription represents the most feasible method of achieving dialing parity in long distance markets consistent with" the 1996 Act (§207). It therefore seeks comment on whether consumers should be allowed to choose a different primary carrier for different categories of calls, and whether a uniform, nationwide presubscription methodology for local and toll dialing is necessary (§210). Sprint believes that, at a minimum, customers should be allowed to choose separate intraLATA and interLATA carriers based on a modified 2-PIC option.

There are four types of toll calling for which presubscription might be considered: interLATA toll; interstate intraLATA

toll; intrastate intraLATA toll; and international. The distinction between interLATA and intraLATA toll calling is well-established and should be maintained. Competition over the past 12 years has developed around the LATA concept, and presubscription has for the most part already occurred along these lines. Thus, continuing to distinguish between interLATA and intraLATA toll calling for presubscription purposes should be neither prohibitively expensive nor confusing. It might even be more expensive to undo this distinction, since this would involve balloting customers and redesigning switch software.

On the other hand, it would appear pointless to distinguish between intrastate intraLATA and interstate intraLATA toll, since very few end users would likely choose a PIC based upon the interstate intraLATA/intrastate intraLATA distinction. Requiring separate presubscription on this basis will only add an unnecessary element of customer confusion. Therefore, Sprint recommends that the interstate/intrastate intraLATA distinction be eliminated, and that all intraLATA toll calls (both interstate and intrastate) be subject to presubscription at the same time. This minimizes customer confusion and avoids the need to invest in potentially costly software upgrades to enable a switch to distinguish between interstate and intrastate intraLATA toll calls.

In Sprint's view, a separate presubscription choice for international calling should not be required. The Commission tentatively concludes (*NPRM*, ¶206) that the dialing parity requirements apply to international as well as to interstate,

intrastate, local and toll services. Sprint agrees with this conclusion insofar as the Commission's statement suggests that a LEC may not discriminate among providers of international services. The Act clearly requires dialing parity for domestic toll calls, and to the extent that international calls are routed to the customer's preferred interexchange carrier (as is the case today), the domestic dialing parity requirement would automatically apply to international calling as well. If or when a separate PIC is allowed for international calls, then dialing parity should be available to the international PIC as well.

The Commission has correctly found (*NPRM*, ¶¶27-32) that exclusive rules of nationwide applicability will enhance the creation of an environment in which local competition can take root. Presubscription rules are no exception. At least a minimum nationwide presubscription standard should be adopted in order to ensure a firm basis for the development of competition as well as to reduce any confusion consumers may experience when they move.² Sprint believes that this standard should be the modified "2-PIC" option, which allows customers to select a preferred interLATA carrier, and to choose between that carrier and the incumbent LEC to carry intraLATA toll calls. Under the 2-PIC option, international calls would continue to be routed to the primary interexchange (interLATA) carrier, unless the access code

² Standardization may also reduce the cost of switch software upgrades (to the extent that existing switches must be upgraded), since development costs can be spread over more switches.

of another carrier is dialed. The 2-PIC option is well understood and the technology is readily available. This option already has been implemented in a number of states. Therefore, the Commission should require the BOCs to implement this option within 6 months, and independent LECs within 12 months, of adoption of an order in this proceeding.³

As noted, the modified 2-PIC option should be the minimum presubscription standard. However, state commissions may, as a matter of comity, impose more stringent presubscription requirements such as a full 2-PIC option (under which the customer may choose any IXC which is certified to provide service as his preferred carrier for intraLATA toll calls) or a separate international PIC option,⁴ where such stricter requirements are deemed in the public interest. States which already have such higher

³ Section 271(e)(2)(B) prohibits states from requiring BOCs to implement intraLATA toll dialing parity before the BOC has been granted authority under this section to provide interLATA services originating in that state, or before 3 years after the date of enactment of the 1996 Act, whichever is earlier. However, nothing in the 1996 Act prohibits the FCC from adopting a more aggressive implementation schedule.

⁴ It is Sprint's understanding that GTE-Hawaii has implemented a system under which customers are able to select different carriers to handle different categories of calls: domestic interstate, international, and, as of this summer, intraLATA. Under the GTE-Hawaii plan, customers can select a separate carrier for any of these categories, or have a single carrier handle multiple (two or three) traffic categories. It is not clear how costly this multi-PIC capability is, or whether more efficient switch software upgrades can be designed. If the record indicates that there is substantial demand for an international PIC option, the Commission could seek additional information on the general availability and cost associated with this capability, and revisit the issue at a later time based on such information.

requirements in place should be allowed to retain such requirements.⁵

As noted above, Section 251(b)(3) imposes dialing parity requirements on all providers of local exchange service. Therefore, both incumbent and competitive local service providers must allow their customers to access the toll carrier(s) of their choice without dialing extra digits and without unreasonable dialing delay. However, as the Commission suggests (NPRM, ¶213), the dialing parity requirement contained in Section 251(b)(3) does not require that all LECs implement the procedures traditionally associated with equal access, such as balloting customers to determine their primary toll carrier or carriers. Balloting can be costly and confusing to customers, and requiring that all local service providers implement a balloting and allocation mechanism would not serve the public interest.

The interLATA equal access requirements (including customer balloting) adopted by the Commission in CC Docket Nos. 83-1145 and 78-72⁶ continue to apply to the BOCs and independent LECs. Presumably, these carriers will implement the appropriate equal access measures whenever there is a change in circumstances such as the conversion of an office to equal access and the availabil-

⁵ Several states have already adopted the full 2-PIC option.

⁶ *Investigation of Access and Divestiture Related Tariffs*, CC Docket No. 83-1145, Phase I, *Memorandum Opinion and Order* released June 12, 1985 (FCC 85-293); *MTS and WATS Market Structure*, CC Docket No. 78-72, Phase III, *Report and Order* released March 19, 1985 (FCC 85-98).

ity of interLATA presubscription.⁷ There is nothing in the 1996 Act which overturned the Commission's existing interLATA equal access requirements for incumbent LECs.

There also is nothing in the 1996 Act to suggest that Congress intended that full equal access requirements do or should apply to CLECs. To the contrary, imposing balloting requirements on CLECs results in administrative and financial burdens which will outweigh any expected benefits. First, CLECs, unlike the incumbent LECs, do not already have in place the procedures and systems for balloting their customers. Second, a CLEC's customer base, at least initially, will be significantly smaller than that of incumbent LECs, and thus the cost per customer of establishing a balloting process will be higher. Third, the CLECs' customers likely will already be more aware of their carrier selection options (since they had already taken the affirmative step of subscribing to CLEC service), and thus intensive customer notification procedures are less important than is the case for the general population which may be less familiar with or concerned about the whole notion of choosing among alternative carriers. Under these circumstances, rather than imposing balloting requirements on CLECs, the Commission should allow CLECs to

⁷ However, incumbent LECs should not be required to reballot their customers in situations in which intraLATA equal access becomes available after interLATA equal access. Sprint believes that such reballoting will result in customer confusion and the expenditure of money which yields little if any value to the consumer. Competitors can use telemarketing, direct mail, and other marketing techniques to initiate conversion of existing (interLATA) equal access customers.

devise their own marketing strategies for notifying customers about their presubscription options. Should these alternative notification procedures prove insufficient, the Commission can reconsider the issue of CLEC balloting obligations at a later date.

B. Access to Operator Services, Directory Assistance, and Directory Listing

The Commission tentatively concludes that "nondiscriminatory access" to operator services means that a customer is able to connect to a local operator by dialing "0" or "0" plus the desired telephone number, regardless of the identity of his local service provider (§216). Nondiscriminatory access to DA and directory listings means that all customers must be able to access each LEC's DA service and obtain a directory listing in the same manner, no matter which carrier provides local service to either the caller or the customer whose directory listing the caller seeks (§217).

Sprint supports the Commission's interpretation of nondiscriminatory access to these services, since such interpretation will help to ensure that end users will enjoy seamless service no matter what local service provider they choose. All CLEC customers should have access to operator services, DA and directory listing on the same terms and conditions as apply to customers of the incumbent LEC. For example, CLECs should be allowed to list in the incumbent's directories the telephone numbers and addresses of CLEC customers residing in the incumbent's serving

area. The CLEC customer listings should be subject to the same price and enjoy the same quality as apply to ILECs' own listings, and should not be segregated or annotated in a way which identifies the end user as a CLEC subscriber. And, if the incumbent LEC's customers are not assessed a charge for inclusion in the directory listing, neither should the CLEC's customers be charged. CLECs also should be allowed to insert informational pages containing their business and repair numbers in the ILEC's white and yellow pages directories at cost.

In addition, each local service provider should be able to control the routing of all calls, including operator assisted, DA and N11 calls, on its network. CLECs should have the option of providing these services themselves, or of reselling the service of the incumbent LEC.

C. Dialing Delay

The Commission asks commenting parties to define "dialing delay," and to identify a specific period that would constitute an "unreasonable" dialing delay (§218).

The dialing delay provision of the 1996 Act was intended to protect against attempts by the incumbent LEC to degrade its competitors' service by increasing call set-up times. Therefore, Sprint suggests that an evaluation of dialing delay encompass the period beginning when the caller completes dialing a call and ending when the call is delivered by the incumbent LEC to a competing service provider. Such a definition appears to satisfy the intent of the Act, since it holds the incumbent LEC account-

able only for delays within its control. The incumbent LEC has no control over a call once it is handed off to the competing service provider, and it makes no sense to hold the incumbent accountable for call processing which occurs in the network of another carrier.

Sprint further recommends that the same dialing delay standard apply to all calls, whether they terminate to the incumbent's own network or to the network of a competitor. Any difference in dialing delay would be considered unreasonable. This standard will help to ensure that all calls are treated equally, and will minimize the opportunity for anticompetitive discrimination. This standard also is consistent with the requirement under Section 251(c)(2)(c) that incumbent LECs provide interconnection which is "at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection." Sprint would note that under its proposed standard, a "release to pivot" (RTP) local number portability architecture would not satisfy the dialing parity requirement. Under RTP, all calls are assumed to terminate to the incumbent's network; if the incumbent does not find the terminating number in its customer list, the database is queried to determine where the call should be terminated. Subjecting calls to a competitor's network to a database lookup (and thus to additional post dialing delay and expense) while handling calls to the incumbent's

network expeditiously is obviously discriminatory and inconsistent with the notion of dialing parity.

II. NUMBER ADMINISTRATION (Section II.E)

Section 251(e)(1) requires that the Commission "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis." The *NPRM* seeks comment on whether the Commission's prior decision to designate a neutral North American Numbering Plan Administrator (NANPA)⁸ satisfies the requirements of Section 251(e)(1) (*NPRM*, ¶252); what the role of the states should be in administering the NANP (¶¶256-257); and whether Bellcore (the current NANPA), LECs (the current central office code administrators), and the states should continue to perform their NANP administrative functions until such functions are transferred to the neutral NANPA (¶258).

It is clear from the 1996 Act and from the record in CC Docket 92-257 that nondiscriminatory access to NANP resources is essential to the development of competition. Unless telecommunications service providers are able to obtain numbering resources on a timely basis and on reasonable and nondiscriminatory terms and conditions, they will not be able to offer service in competition with the incumbent carrier(s). In the *NANP Order*, the Commission sought to ensure nondiscriminatory access to numbering

⁸ *Administration of the North American Numbering Plan*, CC Docket No. 92-237, Report and Order released July 13, 1995 (FCC 95-283) ("*NANP Order*").

resources by all service providers through the adoption of a new number administration model. Under this model, the Commission would set broad policy objectives for United States number administration, and establish a North American Numbering Council (NANC).⁹ The NANC is to develop guidelines for number administration, and select and oversee a neutral NANP administrator,¹⁰ which would in turn be responsible for processing number resource applications, maintaining administrative numbering databases, and performing central office code administration (*id.*, ¶¶46 and 62).

Sprint believes that this number administration model establishes an appropriate framework for helping to ensure nondiscriminatory administration of the NANP, and that it appears to satisfy the number administration requirements of the 1996 Act. Beyond appointing the NANC, and overseeing the NANC's selection of a neutral NANPA, no further action should be necessary on the Commission's part to satisfy this portion of the Act.

Sprint remains concerned that allowing Bellcore and the LECs (which clearly are not disinterested or neutral entities) to continue to serve as the NANP and CO code administrators presents the opportunity for discriminatory or arbitrary handling of resource requests, and that the potential for abuse in the han-

⁹ *NANP Order*, ¶20. Membership on the NANC is to be broad-based and include representatives from the industry, the states and other NANP member countries. Nominations for membership on the NANC were submitted to the Commission in September 1995; action on these nominations remains pending before the Commission.

¹⁰ The NANC is to select the NANPA within six months of its first meeting (*id.*, ¶67).

dling of such requests increases as incumbent LECs face growing competitive pressures.¹¹ So long as Bellcore and the LECs serve as NANP and CO code administrators, they should be required to apply identical standards and procedures for processing all numbering requests, irrespective of the identity of the party submitting the request.¹² Bellcore and the LECs should also develop electronic access interfaces and procedures so that resource requests can be submitted at any time, rather than only during the number administrator's regular business hours, as is the case today. These measures will help to minimize the opportunity for abuse and will facilitate the administrative tasks associated with NANP resource allocations.

Despite the potential for discrimination inherent in allowing non-neutral entities to serve as NANP and CO code administra-

¹¹ In the *Ameritech Order (Proposed 708 Relief Plan and 630 Number Plan Area Code by Ameritech-Illinois, Declaratory Ruling and Order, 10 FCC Rcd 4596 (1995))*, the Commission provided guidance regarding how new area codes can be lawfully implemented. Nonetheless, several LECs, in their capacity as CO code administrators, continue to recommend that NPA overlays be implemented in order to address code exhaust problems. These recommended NPA overlays present the same problems of discrimination and anticompetitive conduct that the *Ameritech Order* was intended to prevent. Therefore, the Commission should codify the policies contained in the *Ameritech Order* and require CO code administrators to implement geographic splits.

¹² For example, it has come to Sprint's attention that rather than accepting a single order for a block of numbers, one LEC required that a CLEC submit individual orders for every line it wished to obtain. This requirement was eventually removed after extensive negotiations. However, it seems obvious that this requirement was intended to hamper the CLEC's ability to do business, and it seems unlikely that a similar requirement was ever imposed upon the incumbent LEC itself when it needed additional codes.

tors, Sprint recognizes that it is inefficient to transfer these responsibilities to another entity (even assuming that a neutral, generally acceptable entity can be selected) for the presumptively short period until the NANC is appointed and the NANPA is selected.

Sprint is not aware of many instances in which state commissions have ordered the CO code administrator to act in a manner which might impede the development of competition. Therefore, Sprint suggests that the Commission maintain the existing jurisdictional balance with regards to number administration (e.g., delegate to the states "decisions related to the implementation of new area codes subject to the guidelines enumerated" by the Commission (NPRM, ¶257)), with the understanding that any party retains the right to appeal any detrimental state commission mandate to the FCC, and that the FCC will act promptly on such appeals.

III. ACCESS TO RIGHTS-OF-WAY (Section II.C.4)

Section 251(b)(4) requires that each LEC afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with section 224 [pole attachment rules].

Section 224(f) requires that access to these facilities be provided on a nondiscriminatory basis unless there is insufficient capacity or unless such access compromises safety, reliability or general engineering requirements. The Commission is seeking comment on the meaning of "nondiscriminatory access" to the poles,

ducts, conduits and rights-of-way (§222); on specific standards for determining when such access may be denied (§223); and whether to establish rules to govern modification of poles, ducts, conduits and rights-of-way (including notification and determination of cost allocations) (§225).

Sprint believes that competitors should have access to poles, ducts, conduits, and rights-of-way on the same terms and conditions as are available to the incumbent LEC and/or its affiliates, subject to availability and safety, reliability, and engineering considerations.¹³ There is no standard formula to determine whether there is sufficient capacity on a pole, duct, conduit, or right-of-way to allow interconnection. LECs consider several factors, including current fill factors, expected growth, and type of electronics and facilities involved, in deciding whether capacity utilization limits have been reached. However, any LEC which restricts access to its facilities because of claims of insufficient capacity should bear the burden of proving that such restrictions are reasonable and justified.¹⁴ Such

¹³ Some LECs, including the Sprint LECs, sometimes lease space on electric utility poles rather than erect their own poles. Whatever pricing rules for pole attachments are adopted should apply to all utilities, not just telephone companies, to ensure just and reasonable rates by all entities leasing pole space.

¹⁴ For example, an ILEC which denies access to interconnectors because of insufficient spare capacity should be required to provide information such as current fill factors, expected demand growth rates, and timelines for future capacity upgrades or augmentations.

claims should be examined by the Commission on a case-by-case basis.

As the Commission also recognized, access to poles, ducts, conduits and rights-of-way will be limited by reliability and safety factors. For example, in general, one duct or conduit needs to remain available so that in emergency situations, such as a cable cut, the traffic can be rerouted to the spare facility. Pole attachment capacity is limited by height, weight, and geographic considerations.¹⁵ And, interconnectors requesting access to the incumbent's facilities should be subject to the same OSHA and safety procedures which ILEC employees are required to follow when working on or around poles, ducts, conduits and rights-of-way.

In ¶225, the Commission raises a number of difficult costing issues spawned by Section 224(h). Sprint suggests that these costing issues need not, and probably cannot, be fully resolved by the time this rulemaking must terminate. Sprint believes that it is sufficient for the Commission simply to require that, at least for the next five years, all users of poles, ducts, conduits, and rights-of-way be charged the same rate regardless of whether they are providing telephone, cable, or any other serv-

¹⁵ For example, the National Electric Safety Code requires that there be at least 40'' of space between electrical and communications cables; at least 12'' between other cables for maintenance and safety; and at least 18' of clearance over highways. Each pole can support a certain weight; poles located on banks or curves may be able to support less weight (i.e., accommodate fewer attachments) or require additional anchoring.

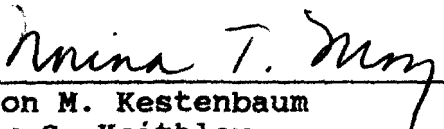
SPRINT CORPORATION
Comments -CC Docket No. 96-98
May 20, 1996

ice. This requirement for uniform pricing should be enough to avoid harming telephone competition during its critical early phases. Based on experience gained over the next few years, the Commission can revisit these costing issues and determine whether new cost allocation rules are necessary to protect competition and should therefore be implemented.¹⁶

Sprint is aware of anecdotal evidence of efforts by some cable TV providers to obtain term agreements with homeowners associations for exclusive access to non-public rights-of-way (e.g., in gated communities). The Commission should adopt rules prohibiting regulated service providers from entering into such exclusive arrangements, since they would inhibit competition and violate the requirements under the 1996 Act.

Respectfully submitted,

SPRINT CORPORATION


Leon M. Kestenbaum
Jay C. Keithley
Norina T. Moy
1850 M St., N.W., Suite 1110
Washington, D.C. 20036
(202) 857-1030

May 20, 1996

¹⁶ It is also unlikely to prove useful at this time for the Commission to try to further define the term "reasonable opportunity" that appears in Section 224(h). Almost by definition, what is reasonable will depend upon the specific circumstances of each case. It may be that with further experience, the Commission may be able to adopt some generally applicable rules which will be helpful in resolving such cases; but, at the present time, even this is unclear.

SPRINT CORPORATION'S
INITIAL PROPOSED RULES¹

**PART X -- INTERCONNECTION WITH
INCUMBENT LOCAL EXCHANGE CARRIERS**

§X.1 Applicability

This Part governs the interconnection obligations of local exchange carriers under §251 of the Communications Act of 1934, as amended ("the Act"). The rules in this Part shall be binding on all State commissions acting on all matters within the scope of §§251 and 252 of the Communications Act of 1934, as amended ("the Act").

§X.2 Definitions

The definitions of the Communications Act of 1934, as amended, shall apply except as otherwise indicated below.

§X.3 Duty to negotiate in good faith

Incumbent local exchange carriers shall negotiate in good faith with carriers requesting agreements under §251 of the Act. In addition to the matters specified in §252(b)(5) of the Act, any attempt by an incumbent local exchange carrier to require a carrier requesting interconnection services or network elements to agree to limit its legal remedies in the event negotiations regarding such request do not result in an agreement shall be considered a violation of the duty to negotiate in good faith.

§X.4 Filing of Agreements

(a) Any agreement in effect between an incumbent local exchange carrier and any other carrier regarding interconnection, services (including transport and termination of interconnection traffic) or network elements that was entered into before the effective date of this section shall be filed publicly by the incumbent local exchange carrier with the State commission within 30 days of the effective date of this section. If the incumbent local exchange carrier intends to renegotiate the terms of such agreement, it shall so advise the State commission at the time of filing. The incumbent local exchange carrier shall extend the terms of such agreement that remains in effect six months after the effective date of this section to any other telecommunications carrier agreeing to such terms.

¹ These rules reflect the positions taken in Sprint's initial comments, and may change, and be added to, in light of its analysis of the comments of other parties. These rules do not reflect other actions Sprint urges the Commission to take in the ordering paragraphs of its order in this docket, such as a requirement to establish standards for, and implementation of, "electronic bonding" with incumbent local exchange carrier back-office systems.

(b) Any agreement between an incumbent local exchange carrier and any other carrier regarding interconnection, services (including transport and termination of interconnection traffic) or network elements pursuant to §251 of the Act that is entered into on or after the effective date of this section shall be publicly filed by the incumbent local exchange carrier with the State commission within ten days of its execution.

§X.5 Interconnection

(a) Interconnection -- i.e., the physical linking of the networks of two carriers -- shall be made available by an incumbent at any technically feasible point, including tandem and end-office switch locations. Interconnection for purposes of this section may only be made available to carriers seeking to provide local exchange service or exchange access service. Any telecommunications carrier requesting interconnection at any point other than a tandem or end-office switch location shall specify the desired point of interconnection with sufficient detail (e.g., the location of the requested point of interconnection and the type of equipment or facilities intended to be used) to permit meaningful evaluation by the incumbent local exchange carrier. The incumbent local exchange carrier shall have the burden of proof to show that a requested point of interconnection is not technically feasible. Once interconnection at a particular point is made available by any incumbent local exchange carrier, it should be presumed that it is technically feasible for other incumbent local exchange carriers, using like technology, also to provide such interconnection. If an incumbent local exchange carrier claims that interconnection at a requested point is not technically feasible, it shall:

- (1) offer the requesting carrier economical alternatives to the interconnection that the incumbent local exchange carrier believes is not technically feasible;
- (2) describe to the requesting carrier how the requested interconnection functions are accomplished within the incumbent local exchange carrier's own network;
- (3) explain to the requesting carrier why the incumbent local exchange carrier's own interconnection functions cannot be used for the requested interconnection;
- (4) undertake studies and analyses to assess the technical feasibility of the requested interconnection and provide the requesting carrier with all such studies and analyses; and
- (5) provide the requesting carrier with all other relevant information and documents that the incumbent local exchange carrier relied upon to conclude that the requested interconnection was not technically feasible.

All such information may be provided by the requesting carrier to the State commission under §252 of the Act.

(b) The incumbent local exchange carrier shall allow a requesting carrier the same technical interconnections that it uses for itself or its affiliates, or provides to any other carrier. To the extent there are fixed costs involved in providing a particular interconnection, the agreement between the incumbent local exchange carrier and the requesting carrier shall provide for recovery of those costs to be shared by any other carriers that later purchase the same interconnection arrangement. The incumbent local exchange carrier shall impute to its retail rates,